

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2453 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SHARMA MUKESHKUMAR SURAJMAL

Versus

HIMANSHU SHETH OR SUCCESSOR IN HIS OFFICE

Appearance:

MR DHARMESH V SHAH for Petitioner
MS SUDHANSHU PATEL AGP for Respondents-State
MR BHARAT T RAO for Respondent No. 4

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 01/07/1999

ORAL JUDGEMENT

Heard learned advocates for the respective parties.

2. The petitioner before this Court challenges the order of preventive detention dated 4th March, 1999 made by the District Magistrate, Patan under the powers conferred upon him under Sub-section 2 (a) of Section 3 of the Prevention of Black Marketing & Maintenance of Supplies of Essential Commodities Act, 1980 [hereinafter referred to as, 'the Act'].

3. Amongst several other grounds learned advocate Mr. Shah, appearing for the petitioner, has contended that during the search carried out at the shop of the petitioner, the concerned authority had recovered documents like Stock register, Sale register, Bill-book, etc. The grounds of detention suggest that the detaining authority has relied upon the entries made in the bill-book, the sale register, stock-register, etc. However, alongwith the grounds of detention, the petitioner was not supplied with the copies of such entries. Even after the demand made under his representation dated 4th March, 1999, the bill-books were not supplied to the petitioner.

4. The contention has been contested by the learned AGP Mr. Patel. He has submitted that alongwith the grounds of detention, the petitioner was also served with the statement showing all the relevant entries from the stock register and the sale register and pursuant to his demand made in the representation dated 4th March, 1999, copies of the relevant pages of the stock register and the sale register were also furnished to the petitioner on 23rd March, 1999.

5. On perusal of the grounds of detention, I find that the detaining authority has relied not only on the entries made in the stock register and the sale register but also the bill book. It is categorically mentioned that the original bills and the office-copies were recovered from the shop and the entries made in the said bills did not tally with the entries made in the sale register. This clearly indicates that the concerned authority had recovered the bill books alongwith the stock register and the sale register and only upon comparison of the said documents, had found certain irregularities allegedly committed by the petitioner. It was, therefore, imperative for the detaining authority to supply copies of the bills referred to in the grounds of detention. Admittedly, copies of the bills were not supplied to the petitioner. In absence of the copies of the said bills, the petitioner obviously could not have made effective representation against the conclusion drawn by the detaining authority in paragraph 3 of the

grounds of detention. Thus, the petitioner has been deprived of his right to make effective representation against the order of detention. This infirmity itself should vitiate the continued detention of the petitioner.

6. The petition is, therefore, allowed. The order dated 4th March, 1999; Annexure-A to the petition, is quashed and set-aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be set free forthwith.

Prakash*